

Department of Veterans Affairs

§ 1.907

(d) Sections 1.900 through 1.954 do not apply to claims between Federal agencies. VA shall attempt to resolve inter-agency claims by negotiation. Any unresolved claims shall be referred to the General Accounting Office (GAO) for final resolution.

(Authority: 37 U.S.C. 3711)

[52 FR 42105, Nov. 3, 1987]

§ 1.903 Settlement, waiver, or compromise under other statutory or regulatory authority.

Nothing in §§ 1.900 through 1.954 is intended to preclude VA settlement, waiver, or compromise of claims under statutes other than the Federal Claims Collection Act. See, e.g. 38 U.S.C. 3720(a)(4) and (5) and 5302(a) and 42 U.S.C. 2651-2653. Nor are §§ 1.900 through 1.954 intended to preclude Department of Veterans Affairs settlement, waiver, or compromise of claims under § 17.48(f) of this chapter for the cost of medical or hospital care furnished pursuant to § 17.47 (c)(1) or (d) of this chapter to persons who are entitled to hospital care or medical or surgical treatment or to reimbursement for all or part of the cost thereof by reason of "workmen's compensation" or "employer's liability" statutes, State or Federal; right to maintenance and cure in admiralty; or statutory or other relationships with third parties, giving rise to liability for damages because of negligence or other legal wrong.

[32 FR 2613, Feb. 8, 1967, as amended at 52 FR 42105, Nov. 3, 1987]

§ 1.904 Conversion claims.

The instructions contained in §§ 1.900 through 1.954 are directed primarily to the recovery of money on behalf of the Government and the circumstances in which the Department of Veterans Affairs may dispose of claims for less than the full amount. In addition, the Department of Veterans Affairs will assert demands for the return of specific property or the payment of its value in cases of conversion.

§ 1.905 Subdivision of claims not authorized.

Claims shall not be subdivided in order to avoid the monetary ceiling es-

tablished by 31 U.S.C. 3711(a)(2). A debtor's liability arising from a particular transaction or contract shall be considered as a single claim in determining whether the claim is one of less than \$20,000, exclusive of interest and administrative costs, either for purposes of suspension or termination of collection action (§§ 1.940 through 1.943) or for determining the applicability of the \$20,000 limit with respect to compromise (§§ 1.930 through 1.938).

(Authority: 31 U.S.C. 3711)

[52 FR 42105, Nov. 3, 1987]

§ 1.906 Required administrative proceedings.

Nothing contained in §§ 1.900 through 1.954 is intended to foreclose the right of any debtor to appeal or administrative hearing provided by statute, contract, or applicable Department of Veterans Affairs Regulation.

§ 1.907 Definitions.

(a) For the purpose of §§ 1.900 through 1.954, the terms *claims* and *debt* are synonymous and interchangeable. They refer to any amount of money or property which has been determined by an appropriate official of VA to be owed to the United States by any person, organization or entity, except another Federal agency.

(b) A debt is considered delinquent if it has not been paid by the date specified in the initial written notice of indebtedness or applicable contractual agreement, unless other satisfactory payment arrangements have been previously made. A debt is also considered delinquent if the debtor fails to satisfy obligations under a repayment agreement with VA.

(c) As used in §§ 1.900 through 1.954, *referral for litigation* means referral to the Department of Justice for appropriate legal actions, except in those specified instances where a case is referred to VA Regional Counsel for legal action.

(Authority: 31 U.S.C. 3701, 3711)

[52 FR 42105, Nov. 3, 1987]

STANDARDS FOR COLLECTION OF CLAIMS

AUTHORITY: Sections 1.910 to 1.921 issued under 72 Stat. 1114; 38 U.S.C. 501.

SOURCE: Sections 1.910 to 1.921 appear at 32 FR 2613, Feb. 8, 1967, unless otherwise noted.

§ 1.910 Aggressive collection action.

The Department of Veterans Affairs will take aggressive action, on a timely basis with effective followup, to collect all claims for money or property arising from its activities.

§ 1.911 Collection of debts owed by reason of participation in a benefits program.

(a) *Scope.* This section applies to the collection of debts resulting from an individual's participation in a benefits program administered by the Department of Veterans Affairs. It does not apply to the Department's other claims collection activities. (Note: School liability debts are governed by § 21.4009; financial institution debts are subject to chapter II, parts 209, 210, and 240 of title 31, Code of Federal Regulations; and other debts are governed by part 102 of title 4 of the Code of Federal Regulations.)

(b) *Written demands.* When the Department of Veterans Affairs has determined that a debt exists by reason of an administrative decision or by operation of law, the Department of Veterans Affairs shall promptly demand, in writing, payment of the debt. The Department of Veterans Affairs shall notify the debtor of his or her rights and remedies in connection with the debt and the consequences of failure to cooperate with collection efforts. Ordinarily, no more than three demand letters, at intervals of not more than thirty days, will be sent, but letters subsequent to the initial letter will not be necessary if:

- (1) The Secretary determines that further demand would be futile;
- (2) The debtor has indicated in writing that he or she does not intend to pay the debt;
- (3) Judicial action to protect the Government's interest is indicated under the circumstances; or
- (4) Collection by offset pursuant to § 1.912a can be made.

(c) *Rights and remedies.* Subject to limitations referred to in this paragraph, the debtor has the right to informally dispute the existence or amount of the debt, to request waiver

of collection of the debt, to a hearing on the waiver request, and to appeal the Department of Veterans Affairs decision underlying the debt. These rights can be exercised separately or simultaneously. Except as provided in § 1.912a (collection by offset), the exercise of any of these rights will not stay any collection proceeding.

(1) *Informal dispute.* This means that the debtor writes to the Department of Veterans Affairs and questions whether he or she owes the debt or whether the amount is accurate. The Department of Veterans Affairs will, as expeditiously as possible, review the accuracy of the debt determination. If the resolution is adverse to the debtor, he or she may also request waiver of collection as indicated in paragraphs (c)(2) and (3) of this section.

(2) *Request for waiver; hearing on request.* The debtor has the right to request waiver of collection, in accordance with § 1.963 or § 1.964, and the right to a hearing on the request. Requests for waivers must be filed in writing. A waiver request must be filed within the time limit set forth in 38 U.S.C. 5302. If waiver is granted, in whole or in part, the debtor has a right to refund of amounts already collected up to the amount waived.

(3) *Appeal.* The debtor may appeal, in accordance with part 19 of this title, the decision underlying the debt.

(d) *Notification.* The Department of Veterans Affairs shall notify the debtor in writing of the following:

- (1) The exact amount of the debt;
- (2) The specific reasons for the debt, in simple and concise language;
- (3) The rights and remedies described in paragraph (c) of this section, including a brief explanation of the concept of, and requirements for, waiver;
- (4) That collection may be made by offset from current or future Department of Veterans Affairs benefits, subject to § 1.912a; and
- (5) That interest and administrative costs may be assessed, in accordance with § 1.919, as appropriate.

(e) *Sufficiency of notification.* Notification is sufficient when sent by ordinary mail directed to the debtor's last known address and not returned as undeliverable by postal authorities.